

Remarks

Claims 1-35 and 37-44 have been cancelled without prejudice or disclaimer, and claim 36 has been amended herein. Applicants reserve the right to file continuing applications directed to the canceled subject matter. New claims 45-71 have been added to claim additional embodiments of the elected subject matter. The new claims are supported by the specification and original claims as filed. More particularly, support for new claims 45-52 (SEQ ID NO:2 and ATCC Deposit No. 97342) can be found, for example, on page 6, line 14 to page 7, line 27, page 6, lines 26-28 and Figure 1. Support for new claims 53 and 65 (glycosylated polypeptides) can be found, for example, on page 19, lines 16-18. Support for new claims 54 and 64 (heterologous polypeptides) can be found, for example, on page 9, lines 5-33. Support for new claims 55, 66 and 70 (carrier) can be found, for example, on page 26, lines 25-33. Support for new claims 56, 67 and 71 (host cells) can be found, for example, on page 16, lines 4-25 and page 18, lines 22-28. Support for new claims 57-63 (percent identity) can be found, for example, on page 12, lines 28-34. Thus, no new matter has been added.

Claims 36 and 45-71 are pending.

Provisional Election With Traverse

Pursuant to the Office Action mailed September 15, 2006, the Examiner has separated the claimed invention into nine groups (i.e., Groups I to IX). *See*, Office Action at page 2. The Examiner contends that the inventions of the Groups are distinct, each from the other, and has required an election under 35 U.S.C. § 121. *Id.*

To comply with the pending election requirement, Applicants provisionally elect, with traverse, Group II, drawn to the TGF α -HIII polypeptide of original claims 28-35 (now cancelled). Applicants submit that new claims 45-71 are also directed to subject matter falling within the scope of Group II as defined by the Examiner. Applicants reserve the right to file one or more continuing applications directed to non-elected inventions should the restriction requirement be made final.

Applicants respectfully traverse the present restriction requirement. A restriction requirement should not be imposed unless it can be shown that the search and examination of all groups would entail a "serious burden." *See* M.P.E.P. § 803. In the present situation, a search of polypeptide claims would provide useful information for the claims in other related groups. For example, a search of TGF α -HIII polypeptides would

inherently provide relevant information for the other claim groups such as TGF α -HIII polynucleotides, antibodies, and methods of using the same. Accordingly, since a search of the claims of Group II would overlap with a search of Groups I in addition to Groups III-IX, a search of claims drawn to the claimed embodiments of TGF α -HIII (e.g., polynucleotides, polypeptides, antibodies and methods of using the same) would not impose a serious burden. Therefore, it is respectfully requested that the restriction requirement be withdrawn.

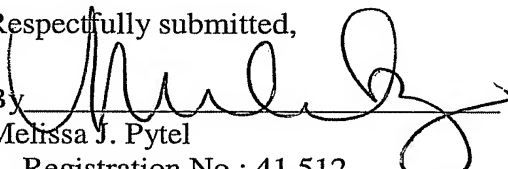
Conclusion

Applicants respectfully request that the above-made amendments and remarks be entered and made of record in the file history of the instant application. The Examiner is invited to call the undersigned at the phone number provided below if any further action by Applicants would expedite the prosecution of this application.

If there are any additional fees due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 08-3425. If a fee is required for an extension of time under 37 C.F.R. § 1.136, such an extension is requested and the appropriate fee should also be charged to our Deposit Account.

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Respectfully submitted,

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